

1 FINANCE AND ADMINISTRATION CABINET

2 Department of Revenue

3 (Amendment)

4 103 KAR 44:100. Procedures for refund based on vehicle condition.

5 RELATES TO: KRS 138.450 -138.470

6 STATUTORY AUTHORITY: 131.130(1), 138.450, 138.460

7 NECESSITY, FUNCTION AND CONFORMITY: KRS 138.460(12)(b) requires the
8 Department of Revenue to promulgate administrative regulations to develop the forms and the
9 procedures by which the owner of a motor vehicle may apply for a refund and document the
10 condition of the vehicle under KRS 138.460(12)(a). KRS 131.130(1) authorizes the Department
11 of Revenue to promulgate administrative regulations for the administration of all tax laws. This
12 administrative regulation establishes the procedures required for claiming and documenting a
13 refund request for motor vehicle usage tax when the tax paid was based upon fifty (50) percent of
14 trade-in value as provided in KRS 138.450(16)(a) and the actual condition of the vehicle at the
15 time the usage tax was paid was less than fifty (50) percent of the trade-in value.

16 Section 1. Definitions. (1) "Adjusted retail price" means, for a motor vehicle subjected to
17 motor vehicle usage tax pursuant to the provisions of KRS 138.450(16)(a), the price based upon
18 the following calculation:

19 (a) Trade-in value based on the reference guide for the motor vehicle listed on the Vehicle
20 Condition Refund Application (71A010);

21 (b) Less the trade-in value based on the reference guide for any motor vehicle given in trade;

1 and

2 (c) Less any repair cost listed in the vehicle condition verification documents submitted to the
3 department.

4 (2) "Reference manual" is defined by KRS 138.450(23).

5 (3) "Repair cost" means costs or estimates for parts or labor to return the motor vehicle to trade-
6 in value or drivable condition and does not include upgrading or improving the vehicle beyond
7 trade-in value condition.

8 (4) "Vehicle condition verification documents" means originals or copies of the following
9 dated items:

10 (a) Photographs of the vehicle indicating the condition of the vehicle supplied by the motor
11 vehicle owner or by Department of Revenue personnel. The photo shall show the vehicle damage
12 and the VIN plate attached to the vehicles. Photos shall be taken by the owner or the Department
13 of Revenue personnel;

14 (b) Receipts for parts purchased for repair. Copies of receipts shall contain the name of the
15 parts purchase, the price of the parts, the name, address, and telephone number of the business
16 where purchased, and the date of purchase;

17 (c) Repair cost estimates. Copies of estimates shall contain the VIN of the vehicle being
18 repaired, the date the estimate was prepared, and the name, address, and telephone number of the
19 estimate preparer; or

20 (d) Repair cost receipts. Copies of receipts shall contain the VIN of the vehicle being repaired,
21 the date the repair was rendered, and the name, address, and telephone number of the vehicle
22 repairer.

23 (5) "Vehicle Identification Number" or "VIN" means the numbers, letters, or combination of

1 numbers and letters assigned by the manufacturer or a governmental entity and stamped upon or
2 otherwise affixed to a motor vehicle or motor vehicle part for the purpose of identification, but
3 does not include the letters, numbers, or combinations on registration plates issued under KRS
4 Chapter 186.

5 Section 2. Refund Application Process. (1) The owner of a motor vehicle who has paid the
6 motor vehicle usage tax according to the provisions of KRS 138.450(16)(a) and requests a refund
7 of a portion of the tax paid shall submit to the department a completed Vehicle Condition Refund
8 Application (Form 71A010) with the following documents attached:

9 (a) A copy of the owner's Kentucky Registration Receipt (Form TC 96-181) for the vehicle;

10 (b) A copy of the owner's completed Application for Kentucky Certificate of Title/Registration
11 (Form TC 96-182) for the vehicle; and

12 (c) At least two (2) vehicle condition verification documents.

13 (2) All documents submitted with the Vehicle Condition Refund Application shall include the
14 VIN to identify the motor vehicle for which the applicant is requesting the refund.

15 (3) The owner of the motor vehicle may utilize one of the department's Taxpayer Service
16 Centers to obtain photographs of the damaged vehicle and for submittal of the Vehicle Condition
17 Refund Application.

18 Section 3. Refund Calculation Amount. (1) The department shall consider all refund requests
19 based upon whether the condition of the motor vehicle at the time the motor vehicle usage tax was
20 paid as evidenced by documentation provided to the department merits an adjusted retail price.

21 (2) Any approved refund shall be the actual amount of tax paid less the tax due based on the
22 greater of the adjusted retail price or the applicant's purchase price as stated on the Kentucky
23 Certificate of Title/Registration (Form TC 96-182).

1 Section 4. Refund Denial. Any incomplete or erroneous information on the Vehicle Condition
2 Refund Application (Form 71A010) or the associated vehicle condition verification documents
3 shall result in the denial of the refund. If the department has denied a refund request, the applicant
4 may resubmit a refund request if additional information is made available.

5 Section 5. Forms. (1) The department forms listed herein may be inspected, copied, or
6 obtained, subject to applicable copyright law, at:

7 (a) The Kentucky Department of Revenue, 501 High Street, Frankfort, Kentucky 40620;

8 (b) A Kentucky Taxpayer Service Center, Monday through Friday, 8 a.m. to 4:30 p.m.; or

9 (c) The department website at <http://revenue.ky.gov>.

10 (2) Form TC 96-181 and TC 96-182 listed herein may be inspected, copied, or obtained, subject
11 to applicable copyright law, at the Kentucky Transportation Cabinet Forms Library website at
12 <http://transportation.ky.gov/Organizational-Resources/Pages/Forms-Library.aspx>, or by calling
13 (502)564-4610.

14 ~~[Incorporation by Reference. (1) The following material is incorporated by reference:~~

15 ~~—(a) "Application for Kentucky Certificate of Title/Registration," Form TC 96-182, (January~~
16 ~~2000);~~

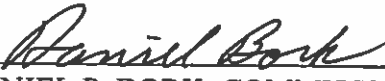
17 ~~—(b) "Kentucky Registration Receipt," Form TC 96-181, (August 1996); and~~

18 ~~—(c) "Vehicle Condition Refund Application," Form 71A010, (August 2006).~~

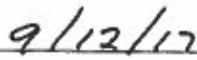
19 ~~—(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at~~
20 ~~the Kentucky Department of Revenue, 501 High Street, Frankfort, Kentucky 40620, or at a~~
21 ~~Kentucky Taxpayer Service Center, Monday through Friday, 8 a.m. to 5 p.m.]~~

103 KAR 44:100

APPROVED BY AGENCY:



DANIEL P. BORK, COMMISSIONER
Department of Revenue
Finance and Administration Cabinet



Date

PUBLIC HEARING AND PUBLIC COMMENT PERIOD

A public hearing on this administrative regulation shall be held on October 24, 2017, at 1:00 p.m. in Room 11A, State Office Building, Frankfort KY 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through October 31, 2017. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Lisa Swiger, Tax Policy Research Consultant, Department of Revenue,
501 High Street, Station 1, Frankfort, Kentucky, 40601, (502) 564-9526 (telephone), (502) 564-
3875(fax), Lisa.Swiger@ky.gov(email).

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Regulation No. 103 KAR 44:100

Contact Person: Lisa Swiger

Phone Number: (502) 782-5705

Email: Lisa.Swiger@ky.gov

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation updates regulatory language to conform to recent statutory language revisions.

(b) The necessity of this administrative regulation: To update outdated language in the regulation to the most up to date information now provided in statute.

(c) How this administrative regulation conforms to the content of the authorizing statutes: It updates the current outdated language to comply with statutory changes made to KRS 131 in SB 129 of the 2016 General Assembly that removed the requirement for the department to file a regulation incorporating applicable forms. This amendment removes references to forms incorporated by reference in this regulation that are now only provided on the Department of Revenue webpage, or from the Transportation Cabinet on their webpage.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: It may potentially decrease calls or questions to the department regarding the most recent versions of the forms listed in this regulation.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This amendment will remove references to forms previously provided in this regulation that may be obtained on the Department of Revenue webpage, or from the Transportation Cabinet on their webpage.

(b) The necessity of the amendment to this administrative regulation: To provide the most up to date information for all who would seek guidance from this regulation.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment provides guidance on the location of the forms listed herein.

(d) How the amendment will assist in the effective administration of the statutes: It may decrease questions or calls to the department, allowing staff to focus on revenue generating tasks.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All individuals, businesses, organizations, or state and local governments that may reference this regulation for guidance.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: No actions are necessary to comply with this amendment.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There is no cost to any entity to comply.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Anyone who accesses the amended regulation will benefit from the updated information contained therein.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: There is no cost to the department to implement the proposed amendment beyond current department budgeted funds and staff.

(b) On a continuing basis: There is no cost to the department on a continuing basis.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: There is no additional cost to implement and enforce the proposed amendment.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: There is no additional cost to implement and enforce the proposed amendment.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: No fees are directly or indirectly established or increased by the proposed amendment.

(9) TIERING: Is tiering applied? (Explain why or why not) : No. Tiering is not applied as all entities who would reference this regulation for guidance will be held to the same criteria.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Regulation No. 103 KAR 44:100

Contact Person: Lisa Swiger

Phone Number: (502) 564-9526

Email: Lisa.Swiger@ky.gov

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Finance and Administration Cabinet, Department of Revenue.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 131.130 and KRS 131.131.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None. This amendment is merely a department cleanup effort for the Red Tape Reduction Initiative to remove unneeded references to forms that are no longer promulgated in a regulation.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None.

(c) How much will it cost to administer this program for the first year? No additional costs will be incurred in the first year of this regulation being in effect.

(d) How much will it cost to administer this program for subsequent years? No additional costs will be incurred in subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation: